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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,247	08/26/2003	Hajime Yamamoto	031029	1773
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38834 7590 04/17/2007  
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WASHINGTON, DC 20036

EXAMINER
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CHACKO DAVIS, DABORAH

ART UNIT	PAPER NUMBER
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1756

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS	04/17/2007	PAPER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 6, 8-16, and 18-20, are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1152036 (Kanda et al., hereinafter referred to as Kanda).

Kanda, in the abstract, in [0001], [0022], [0023], [0024], [0025], [0026], [0034], [0035], and in Table I, discloses forming a semiconductor device by forming a resist pattern on the substrate, coating the resist pattern with a resin composition (resist pattern smoothing material) and subjecting the coated resist pattern to a heat treatment, wherein the thickness of the resin coated onto the resist pattern and the heat treatment is adjusted (suitably determined), followed by developing the coating layer (smoothing layer) resulting in the smoothed resist pattern (resist pattern with smooth side walls, wall surfaces etc) (claims 1, and 20). Kanda, in [0023], discloses that the resist is an ArF resist (claim 6). Kanda, in [0023], discloses that the coating layer is heated in the claimed range (80 - 100°C) (claim 8). Kanda, in [0006], and [0007], discloses that the water-soluble resin composition (coating layer) includes a resin, a surface-active agent, and a crosslinking agent, and is water-soluble (claims 10-11). Kanda, in [0016], discloses that the surfactant is a non-ionic surfactant such as an alkoxylate compound

Art Unit: 1756

(ethoxylate compound) or alcohols (claims 12-13). Kanda, in [0009], and [0011], discloses that the resin is a polyvinyl alcohol, the crosslinking agent is a melamine derivative, and the claimed resin (Claims 14-16). Kanda, in [0019], discloses that the organic solvent is an alcohol solvent (claim 19).

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/290,493. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim forming resist pattern with smoothed or reduced edge roughness using the same method steps include applying a smoothing or resist pattern improving material to the resist pattern, heating and developing.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Response to Arguments***

5. Applicant's arguments filed January 16, 2007, have been fully considered but they are not persuasive. The 102 rejection and the Double patenting rejection made in the previous office action are maintained (paper no. 20061002).

A) Applicants argue that Kanda does not disclose the claimed opening dimension.

Kanda in [0031], [0032], [0033], [0034], [0035], [0036], [0037], and in Table 1, discloses that the resist patterns formed are without fish eyes or striations at all, i.e., the average opening dimension is greater than 90% of the predetermined opening dimension, and Table I (indicating the characteristics) of Kanda reveals that the maximum and minimum opening dimensions are within a range of  $\pm 5\%$  of the predetermined opening dimension (see paragraph no. [0035]).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1756

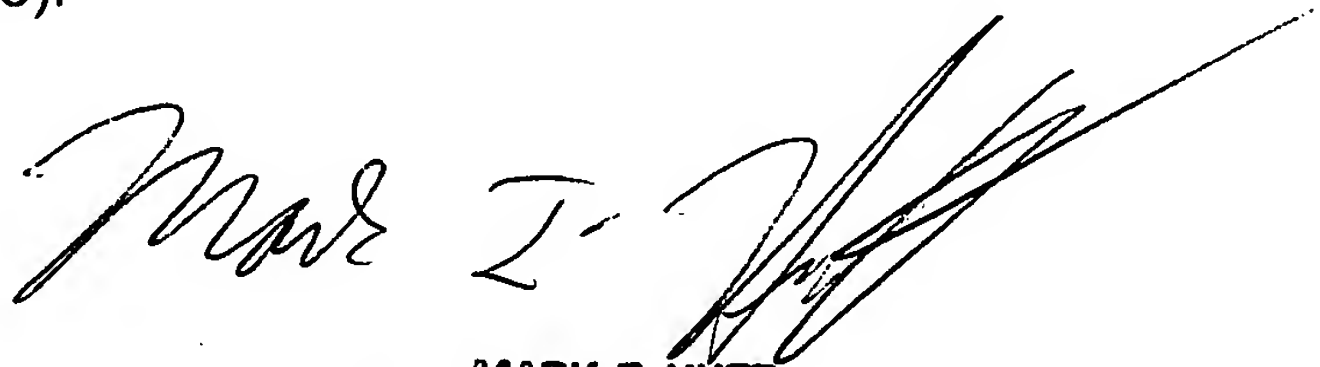
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daborah Chacko-Davis whose telephone number is (571) 272-1380. The examiner can normally be reached on M-F 9:30 - 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F Huff can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dcd



April 10, 2007.



MARK F. HUFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700